

**IN THE
UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION**

UNITED STATES OF AMERICA	:	
	:	
v.	:	Criminal Number: 4:18-CR-00011
	:	
MARCUS JAY DAVIS, et al.	:	

SECOND SUPPLEMENTAL NOTICE OF EXPERT WITNESSES

On June 28, 2019, the United States of America provided notice to defendants, pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G), that the United States intended to call Wendy Gibson, Forensic Scientist Supervisor, and Courtney Etzelmiller, Forensic Science Senior, both with the Virginia Department of Forensic Science, as expert witnesses at trial. ECF Nos. 541 and 532.

On August 24, 2019, the government filed an Amended Notice of Expert Witness to include an additional Certificate of Analysis from Wendy Gibson. ECF No. 664.

By Order dated September 11, 2019, the Court directed the government to supplement the experts' reports of Gibson and Etzelmiller to provide a sufficient narrative summary of the bases and reasons for their opinions. ECF. No. 738.

As directed, the government provides the follow:

I.

INCIDENT:	LAB NOS.	ITEMS:	EXPERT OPINION:
December 9, 2015: Shooting at 177 Sunset Lane	DPD: 15-010628 FS Lab No. W15-11669	Item 1: Three (3) Tula Cartridge Works caliber 7.62 x 39 cartridge cases Item 12: Eleven (11) cartridge casings. One (1) Dynamic Research Technology brand and ten (10) Remington brand caliber 45 Auto cartridge cases.	Identified as being fired in same firearm as Item 26 in the Berryman shooting. Identified as being fired in same firearm as Item 82 casing from Philly Boys shooting and Item 11 casing from Jaquan Trent SW test fired firearm.

Basis for Expert Opinion:

The three (3) Item 1 cartridge cases were microscopically compared using a comparison microscope to the Item 26 cartridge case. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the firearm's breechface, impressed onto the head of the cartridge cases during the firing process, there was sufficient agreement to result in the opinion that the listed cartridge cases were fired in the same firearm.

The Item 12 cartridge cases were microscopically compared using a comparison microscope to the Item 11 cartridge case, a test fired cartridge case representing a Glock model 30s pistol serial number XYW336. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the pistol's firing pin aperture on the breechface, combined with the movement of the cartridge case during the firing process causing shearing (striations / parallel lines) on the primer material around the firing pin impression, there was sufficient agreement to result in the opinion that the Item 12 cartridge cases were fired in the Glock pistol represented by the Item 11 cartridge case.

II.

INCIDENT:	LAB NOS.	ITEM:	EXPERT OPINION:
April 26, 2016 (1:20 a.m.): Shooting on Garland Street	DPD: 16-003150 FS Lab No. W16-4792	Item 4 – F: Hornady brand caliber 9mm Luger cartridge case	Identified as having been fired in the same firearm as Item 70 of the “Philly Boys” shooting

Basis for Expert Opinion:

The six (6) Item 4 cartridge cases (labeled A through F) were microscopically compared using a comparison microscope to the Item 70 cartridge case. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the firearm’s firing pin aperture on the breechface of a firearm, combined with the movement of the cartridge case during the firing process causing shearing (striations/parallel lines) on the primer material around the firing pin impression, there was sufficient agreement to result in the opinion that the listed cartridge cases were fired in the same firearm.

III.

INCIDENT:	LAB NOS.	ITEMS:	EXPERT OPINION:
April 26, 2016 (2:40 a.m.): Shooting on Berryman Street	DPD: 16-003152 FS Lab No. W16-4230	Item 23: Winchester brand caliber .40 Smith and Wesson cartridge case. Item 26: Tula Cartridge Works caliber 7.62x39 mm cartridge case.	Identified as having been fired in the same firearm as Item 8 of the “Philly Boys” shooting. Identified has having been fired in the same firearm as Item 1 in the 177 Sunset Lane shooting.

Basis for Expert Opinion:

The Item 23 cartridge case was microscopically compared using a comparison microscope to the Item 8 cartridge case. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the firearm's firing pin, impressed onto the head of the cartridge cases during the firing process, there was sufficient agreement to result in the opinion that the listed cartridge cases were fired in the same firearm.

The three (3) Item 1 cartridge cases were microscopically compared using a comparison microscope to the Item 26 cartridge case. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the firearm's breechface, impressed onto the head of the cartridge cases during the firing process, there was sufficient agreement to result in the opinion that the listed cartridge cases were fired in the same firearm.

IV.

INCIDENT:	LAB NOS.	ITEMS:	EXPERT OPINION:
June 15, 2016: "Philly Boys" Shooting at North Hills Court	DPD: 16-004722 FS Lab No. W16- 6453	Item 8: Winchester brand caliber 40 Smith and Wesson cartridge case. Item 14: Winchester brand caliber 9mm Luger cartridge case. Item 23: Speer brand caliber 9mm Luger cartridge case. Item 70: Federal brand caliber 9mm Luger cartridge case	Identified as having been fired in the same firearm as Item 23 of the Berryman shooting. Fired from Item 11 pistol from the traffic encounter. Fired from Item 11 pistol from the traffic encounter. Identified as having been fired from the same firearm as Item 4 in the Garland shooting.

		Item 82: Remington brand caliber 45 Auto cartridge case.	Identified as having been fired from the same firearm as Item 11 of the Jaquan Trent SW on Parker Street.
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Basis for Expert Opinion:

The Item 23 cartridge case was microscopically compared using a comparison microscope to the Item 8 cartridge case. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the firearm's firing pin, impressed onto the head of the cartridge cases during the firing process, there was sufficient agreement to result in the opinion that the listed cartridge cases were fired in the same firearm.

The Item 14 and 23 cartridge cases were microscopically compared using a comparison microscope to the cartridge cases test fired at the laboratory in the Item 11 pistol (generating Item 11T test fires). Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from this pistol's breechface, impressed onto the head of the cartridge cases during the firing process, there was sufficient agreement to result in the opinion that the Item 14 and 23 cartridge cases were fired in the Item 11 pistol.

The Item 70 cartridge case was microscopically compared using a comparison microscope to the six (6) Item 4 cartridge cases (labeled A through F). Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the firearm's firing pin aperture on the breechface of a firearm, combined with the movement of the cartridge case during the firing process causing shearing (striations/parallel lines) on the primer material around the firing pin impression, there was sufficient agreement to result in the opinion that the listed cartridge cases were fired in the same firearm.

The Item 82 cartridge case was microscopically compared using a comparison microscope to the Item 11 cartridge case, a test fired cartridge case representing a Glock model 30s pistol serial number XYW336. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the pistol's firing pin aperture on the breechface, combined with the movement of the cartridge case during the firing process causing shearing (striations/parallel lines) on the primer material around the firing pin impression, there was sufficient agreement to result in the opinion that the Item 82 cartridge case was fired in the Glock pistol represented by the Item 11 cartridge case.

V.

INCIDENT:	LAB NOS.	ITEM:	EXPERT OPINION:
August 20, 2016: Murder of C. Motley at North Hills Court	DPD: 16-006833 FS Lab No. W16-08043	Item 2: Winchester brand caliber 40 S&W cartridge case (C. Etzelmiller)	Identified as having been fired in Item 1 of the Maryland Park Police seizure.

Basis for Expert Opinion:

The Item 2 cartridge case was microscopically examined using a stereo microscope. Microscopic markings imparted by a firearm during the firing process were noted on the cartridge case. The observed markings appeared to be suitable (i.e. quantity and quality) for possible identification with a firearm. The shape of the firing pin impression (a distinctive D-shape) is a class characteristic of a line of pistols manufactured by Smith & Wesson. The Item 2 cartridge case was entered into the NIBIN (National Integrated Ballistic Information Network) database. A correlation list was returned by the system and a review of the returned images yielded a conclusion of no associations.

VI.

INCIDENT:	LAB NOS.	ITEMS:	EXPERT OPINION:
November 2, 2016: Traffic Encounter	DPD: 16-008984 FS Lab No. W16-10692	Item 11: Diamondback 9mm firearm, Serial Number FA6517 Item 11T: Ammunition components produced from test firing Item 11 (Item created at	(See below) Identified as having been fired in the same firearm as Items 14 and 23 in the “Philly Boys” shooting

		the Western Laboratory)	
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Basis for Expert Opinion:

The Item 11 pistol was used in the laboratory to generate the Item 11T test fired cartridge cases which were microscopically compared using a comparison microscope to the Item 14 and 23 cartridge cases. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from this pistol's breechface, impressed onto the head of the cartridge cases during the firing process, there was sufficient agreement to result in the opinion that the Item 14 and 23 cartridge cases were fired in the Item 11 pistol.

VII.

INCIDENT:	LAB NOS.	ITEM:	EXPERT OPINION:
November 4, 2016: Search of Jaquan Trent's Residence on Parker Road	DPD: 16-009055 FS Lab No. W17-335	Item 11: Federal brand caliber 45 Auto cartridge case (reported as test fired in a Glock model 30s pistol, Serial Number XYW336.	Identified as having been fired in the same firearm as Item 12 of the 177 Sunset shooting and Item 82 of the "Philly Boys" shooting.

Basis for Expert Opinion:

The Item 11 cartridge case, a test fired cartridge case representing a Glock model 30s pistol serial number XYW336, was microscopically compared using a comparison microscope to the Item 12 and 82 cartridge cases. Through the direct microscopic comparison (side-by-side) of the overall spatial arrangement of the individual characteristics from the pistol's firing pin aperture on the breechface, combined with the movement of the cartridge case during the firing process causing shearing (striations/parallel lines) on the primer material around the firing pin impression, there was sufficient agreement to result in the opinion that the Item 12 and 82 cartridge cases were fired in the Glock pistol represented by the Item 11 cartridge case.

The representations and notices contained in the original and amended Notices of Expert Witnesses (ECF. Nos. 541, 532 and 664) and Amended Notice of Expert Witness remain unchanged and are incorporated herein.

WHEREFORE, the United States respectfully submits this Supplemental Notice of Expert as directed by the Court and pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G).

Respectfully submitted,
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CERTIFICATE

I hereby certify that a true and correct copy of the foregoing has been electronically filed with the Clerk by CM/ECF system, which will send notification of such filing to all counsel of record, on this 16th day of September, 2019.

s/Ronald M. Huber
Assistant United States Attorney